

## A PUBLICATION OF THE NEW JERSEY DIVISION OF PENSIONS AND BENEFITS

# Accidental Disability or Accidental Death Benefit Coverage for Off-Duty or Outside Employment

Police and Firemen's Retirement System • Public Employees' Retirement System

The purpose of this fact sheet is to clarify when a member of the Police and Firemen's Retirement System (PFRS) or the Public Employees' Retirement System (PERS) who is engaged in off-duty or outside employment may possibly be eligible for Accidental Disability or Accidental Death benefit coverage under the retirement systems.

Awards of Accidental Disability and Accidental Death benefits are made on a case-by-case basis after review by the Board of Trustees of the Police and Firemen's Retirement System or the Public Employees' Retirement System. Therefore, the information in this fact sheet must be considered a guideline and not an absolute answer regarding Accidental Disability or Accidental Death coverage for off-duty or outside employment.

## STATUTORY AUTHORITY

### Accidental Disability

The statutory authority for Accidental Disability retirements is N.J.S.A. 43:16A-7 for members of the PFRS. It provides that the member must be "permanently and totally disabled as a direct result of a traumatic event occurring during and as a result of the performance of his regular or assigned duties...." The authority for Accidental Disability retirements for members of the PERS is N.J.S.A. 43:15A-43 which is substantially similar to the PFRS statute. The PERS statute adds that, "A traumatic event occurring during voluntary performance of regular or assigned duties at a place of employment before or after required hours of employment which is not in violation of any valid work rule of the employer or otherwise prohibited by the employer shall be deemed as occurring during the performance of regular or assigned duties."

### Accidental Death

The statutory authority for Accidental Death benefits is N.J.S.A. 43:16A-10 for PFRS members and N.J.S.A. 43:15A-49 for PERS members. These

statutes are also very similar and provide that, "upon the death of a member in active service as a result of any accident met in the actual performance of duty at some definite time and place and such death was not the result of the member's willful negligence, an accidental death benefit shall be payable..." (N.J.S.A. 43:16A-10).

The Division of Pensions and Benefits, in order to clarify when an employee is fully covered by the retirement system for Accidental Disability and Accidental Death provisions, has used the following criteria, which were first issued as a Certifying Officer Memorandum in 1990.

1. The officer (employee) **must** be working for the member's employing department and **must** be subject to its supervision and control.
2. The officer (employee) **must** be paid by the employer through which the member contributes to the PFRS or PERS, but the rate of pay need not be the regular compensation or overtime rate for the outside employment, but it **must** be paid by the department. The department may be reimbursed by the outside employer.

For example, police officers who are assigned by their PFRS employers to direct traffic at a construction site, and who are paid by their PFRS employers for this service would probably be eligible for an Accidental Disability benefit if a traumatic event occurred while directing traffic. A police officer who, during off-duty hours, accepted a position with another employer and was paid by that employer to direct traffic at a construction site would probably not be eligible for Accidental Disability benefits.

Another example would be a member of the PERS who, as part of the member's duties, had to respond to accidents regarding hazardous waste. If that member was required to respond during off-duty hours and was compensated for that duty by the member's PERS employer, an injury due to a

traumatic event might qualify for an Accidental Disability. A PERS member who volunteered as an EMT and who was allowed to use leave time from the member's PERS employer to respond to an emergency, would probably not be eligible for an Accidental Disability benefit if injured due to a traumatic event.

### **EXCEPTIONS**

N.J.S.A. 40A:14-199 provides an exception for law enforcement officers, firefighters, emergency medical technicians, or paramedics who participate on search and rescue task forces or teams and who are injured or die in the performance of the search and rescue work outside of the territorial jurisdiction in which they are employed.

#### **Exceptions for Police Officers**

A county or municipal police officer who is off duty, but who is disabled or killed trying to prevent a crime or apprehend a person committing a crime in New Jersey would probably qualify for an Accidental Disability or Death benefit pursuant to N.J.S.A. 40A:14-107.1 and 40A:14-152.2. These statutes provide that whenever any municipal or county police officer who has been conferred with Statewide police powers acts under lawful authority beyond the territorial limits of their employing municipality or county, that officer shall have all of the pension, relief, disability, Worker's Compensation, insurance, and other benefits enjoyed while performing such duties within said employing municipality or county.

#### **Exceptions for Firefighters**

N.J.S.A. 43:16A-10(1) provides that an Accidental Death benefit shall apply "to a member who is a fireman and who dies as a result of an accident met in the actual performance of duty as a volunteer fireman in any municipality in the State, provided the member's death was not the result of willful negligence."

### **OTHER BENEFITS**

Ordinary Disability retirement benefits, life insurance benefits, and "not in-the-line-of-duty" death benefits for PFRS members are not based on whether an injury or death is job related. Therefore, outside employment would not affect a member's eligibility for these benefits.

If you have specific questions regarding off-duty employment, you may write to the Division of Pensions and Benefits, Office of the Board Secretary, PO Box 295, Trenton, NJ 08625-0295, or e-mail your question to: [pensions.nj@treas.state.nj.us](mailto:pensions.nj@treas.state.nj.us)

Information on Accidental Disability retirement and Accidental Death benefits is available in your pension fund's member handbook. See your human resources or personnel representative to obtain a copy or view the handbooks online at the Divisions' Internet site: [www.state.nj.us/treasury/pensions](http://www.state.nj.us/treasury/pensions)

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This fact sheet is a summary and not intended to provide total information.

Although every attempt at accuracy is made, it cannot be guaranteed.

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